

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2449

Introduced by Assembly Member Correa

February 21, 2002

An act to add *Section 7401 to, and to add Article 6.5* (commencing with Section 7353.1) to *Chapter 10 of Division 3 of, the Business and Professions Code*, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as amended, Correa. Barbering and cosmetology: independent contractors.

Existing law, the Barbering and Cosmetology Act, provides a comprehensive scheme of regulation and licensure for persons practicing barbering, cosmetology, skin care, nail care, or electrolysis.

This bill would require that an establishment owner ~~file a quarterly report disclosing any independent contractor working in his or her establishment and to display a disclosure notice to the public stating that independent contractors work when an independent contractor or booth renter works in the establishment. Additionally, the bill would require that independent contractors in barbering, cosmetology, electrolysis, nail care, or skin care obtain an establishment license, and display in their booth both the license and, where the independent contractor lacks liability insurance, a disclosure of the lack of liability insurance.~~

Existing law requires the bureau to furnish forms for license applications.

This bill would require the bureau to require an applicant to identify himself or herself as an employee, an independent contractor or booth renter, or a salon owner.

Existing law provides that a violation of the act is a misdemeanor unless another penalty is specified.

In enlarging the scope of activities subject to that penalty, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6.5 (commencing with Section 7353.1)
2 is added to Chapter 10 of Division 3 of the Business and
3 Professions Code, to read:

4

5 Article 6.5. Independent Contractor Guidelines

6

7 7353.1. The Legislature hereby finds and declares that there
8 exists in this state a need to protect the integrity of the beauty and
9 barbering industry by disclosing important information to
10 consumers and by requiring the beauty and barbering industry to
11 disclose licensing and tax information to the appropriate
12 regulatory boards. For this purpose, the Legislature intends to
13 enact public and regulatory disclosure requirements and to ensure
14 disclosure by providing legal consequences for noncompliance.

15 7353.2. (a) ~~Establishment owners who run a beauty or~~
16 ~~barbering business shall file quarterly reports with the Franchise~~
17 ~~Tax Board disclosing the Bureau of Barbering and Cosmetology~~
18 ~~license number of each booth renter or independent contractor~~
19 ~~currently working in the facility rented to or owned by the~~
20 ~~establishment owner, and of each booth renter or independent~~
21 ~~contractor that worked in the facility during the quarter which is~~
22 ~~the subject of the report.~~

1 ~~(b) If an establishment owner fails to file a quarterly report or~~
2 ~~omits a booth renter or independent contractor from the quarterly~~
3 ~~report, any undisclosed booth renter or independent contractor~~
4 ~~working in the owner's establishment shall be considered an~~
5 ~~employee of the establishment owner for the quarter which is the~~
6 ~~subject of the report.~~

7 ~~(c) The Franchise Tax Board may charge a fee to cover the costs~~
8 ~~associated with the enforcement of this section's reporting~~
9 ~~requirement, and may establish fines for noncompliance.~~

10 ~~(d) "Booth renters," as used in this article, includes anyone~~
11 ~~performing barbering, cosmetology, electrolysis, nail care, or skin~~
12 ~~care as an independent contractor.~~

13 ~~(e)~~
14 ~~(b) "Independent contractor," as used in this article, refers to~~
15 ~~anyone working in the beauty or barbering industry as an~~
16 ~~independent contractor performing services including barbering,~~
17 ~~cosmetology, electrolysis, nail care, or skin care.~~

18 ~~7353.3. (a) Notwithstanding Section 7342, booth renters and~~
19 ~~independent contractors shall apply for and receive an~~
20 ~~establishment license from the Board of Barbering and~~
21 ~~Cosmetology prior to operating a booth and providing any of the~~
22 ~~services listed in subdivision (d) of Section 7353.2 to the public.~~

23 ~~(b) Booth renters and independent contractors shall~~
24 ~~prominently display in their booths:~~

25 ~~(1) Their establishment license.~~

26 ~~(2) A public disclosure of lack of professional and general~~
27 ~~liability insurance, if the booth renter or independent contractor~~
28 ~~does not carry a policy of that type. The public disclosure shall be~~
29 ~~in a font size no smaller than 12-point type.~~

30 ~~7353.5. Owners of establishments in which booth renters or~~
31 ~~independent contractors operate. An establishment owner who~~
32 ~~runs a beauty or barbering facility where an independent~~
33 ~~contractor or booth renter works shall prominently display a~~
34 ~~disclosure to the public that some or all of the stylists are~~
35 ~~independent contractors, and are not employees of the owner or the~~
36 ~~publicly displayed name of the physical establishment. Failure to~~
37 ~~properly disclose this information to the public may result in the~~
38 ~~suspension or revocation of the owner's establishment license, as~~
39 ~~determined by the board. An establishment owner shall~~

1 *conspicuously post the following notice in the reception area in a*
2 *font size no smaller than 24-point type:*

3 *“SOME OR ALL OF THE STYLISTS WORKING IN THIS*
4 *FACILITY ARE INDEPENDENT CONTRACTORS OR BOOTH*
5 *RENTERS AND ARE NOT LEGALLY AFFILIATED WITH*
6 *[INSERT THE PUBLICLY DISPLAYED NAME OF THE*
7 *PHYSICAL ESTABLISHMENT].”*

8 SEC. 2. *Section 7401 is added to the Business and Professions*
9 *Code, to read:*

10 7401. *The bureau shall require an applicant for an original*
11 *license or a license renewal to identify himself or herself on the*
12 *application as one of the following:*

13 (a) *Employee.*

14 (b) *Independent contractor or booth renter.*

15 (c) *Salon owner.*

16 SEC. 3. *No reimbursement is required by this act pursuant to*
17 *Section 6 of Article XIII B of the California Constitution because*
18 *the only costs that may be incurred by a local agency or school*
19 *district will be incurred because this act creates a new crime or*
20 *infraction, eliminates a crime or infraction, or changes the penalty*
21 *for a crime or infraction, within the meaning of Section 17556 of*
22 *the Government Code, or changes the definition of a crime within*
23 *the meaning of Section 6 of Article XIII B of the California*
24 *Constitution.*

